

FILED

JAN 25 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. PT-2010-2310

13 **LINDA JOHNSON**
904 Fairway Drive, Apt. 175
Colton, CA 92324

A C C U S A T I O N

14 Psychiatric Technician License No. PT 34452

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing & Psychiatric
21 Technicians.

22 2. On or about October 16, 2008, the Board of Vocational Nursing and Psychiatric
23 Technicians (Board) issued Psychiatric Technician License Number PT 34452 to Linda Johnson,
24 also known as, Linda Carol Johnson and Linda Carol Smith (Respondent). The Psychiatric
25 Technician License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on October 31, 2013, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license
6 shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period
7 within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1
8 of the Code, the Bureau may renew an expired license at any time within four years after the
9 expiration.

10 5. Section 492 states:

11 "Notwithstanding any other provision of law, successful completion of any diversion
12 program under the Penal Code, or successful completion of an alcohol and drug problem
13 assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of
14 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
15 (commencing with Section 500) of this code, or any initiative act referred to in that division, from
16 taking disciplinary action against a licensee or from denying a license for professional
17 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
18 pertaining to an arrest. This section shall not be construed to apply to any drug diversion program
19 operated by any agency established under Division 2(commencing with Section 500) of this code,
20 or any initiative act referred to in that division."

21 6. Section 4521 states, in pertinent part:

22 "The board may suspend or revoke a license issued under this chapter [the Psychiatric
23 Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the following reasons:

24 "(a) Unprofessional conduct, which includes but is not limited to any of the following:

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1 (4) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
2 physician and surgeon, dentist, or podiatrist administer to himself or herself or furnish or
3 administer to another, any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code or any dangerous drug as defined in Section 4022 .

5 (5) Use any controlled substance as defined in Division 10 (commencing with Section
6 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or
7 alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any
8 other person, or the public or to the extent that the use impairs his or her ability to conduct with
9 safety to the public the practice authorized by his or her license.

10 REGULATORY PROVISIONS

11 7. California Code of Regulations, title 16, section 2576.6 states, in pertinent part:

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13 “(b) A licensed psychiatric technician shall adhere to standards of the profession and
14 shall incorporate ethical and behavioral standards of professional practice which include but are
15 not limited to the following:

16

17 (4) Abstaining from chemical/substance abuse; and

18

19 “(c) A violation of this section constitutes unprofessional conduct for purposes of
20 initiating disciplinary action.”

21 8. California Code of Regulations, title 16, section 2578 states, in pertinent part:

22 “For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
23 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
24 considered to be substantially related to the qualifications, functions or duties of a licensed
25 psychiatric technician if to a substantial degree it evidences present or potential unfitness of a
26 licensed psychiatric technician to perform the functions authorized by his license in a manner
27 consistent with the public health, safety, or welfare.”

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1 **COST RECOVERY**

2 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licentiate found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 10. **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

7 a. "Marijuana," is a schedule I controlled substance as defined in Health and Safety
8 Code section 11056, subdivision (d)(13) and is categorized a dangerous drug pursuant to section
9 4022.

10 b. "Cocaine," is a schedule II controlled substance as defined in Healthy and Safety
11 Code section 11054, subdivision(f)(1) and is categorized a dangerous drug pursuant to section
12 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Illegal Possession, Prescribing, Self-Administration of Controlled Substance)**

15 11. Respondent is subject to disciplinary action under section 4521, subdivision (a)(4), on
16 the grounds of unprofessional conduct, in that on or about December 4, 2010, Respondent was
17 found to be in illegal possession of a controlled substance. The circumstances are as follows:

18 a. Respondent was first contacted by a security guard while sitting in her vehicle for
19 possession of marijuana. The security guard then contacted San Bernardino Sheriff's Department
20 once he observed a baggie of marijuana inside Respondent's purse. Respondent admitted to the
21 Sheriff that the marijuana inside her purse was in fact hers and that she smokes marijuana. During
22 a search of Respondent's vehicle the Sheriff located a piece of rock cocaine on the passenger seat
23 area. Respondent was arrested for violating Health and Safety Code section 11350 [possession of
24 a controlled substance].

25 b. Subsequently, on or about March 23, 2011, after pleading guilty, Respondent was
26 placed on Deferred Entry of Judgment for 18 months for one misdemeanor count for violating
27 Health and Safety code 11377, subdivision (a) [possession of a controlled substance] in the
28 criminal proceedings entitled *The People of the State of California v. Linda Johnson* (Super. Ct.

1 San Bernardino County, 2011, No. FSB1100536). In addition, the Court ordered Respondent to
2 register as a drug offender.

3 c. On or about October 19, 2012, Respondent's deferred entry of judgment was
4 terminated. Respondent failed to comply with the court's diversion program. Respondent
5 informed the court that she lost her job and did not have the means to pay for the program or the
6 fine. Respondent was re-sentenced to one year of probation with standard terms and conditions.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Illegal Use of Drugs)**

9 12. Respondent is subject to disciplinary action under section 4521, subdivision (a)(5), on
10 the grounds of unprofessional conduct, in that on or about December 4, 2010, Respondent, by her
11 own admission, admitted to using marijuana. Complainant refers to, and by this reference
12 incorporates, the allegations set forth above in paragraph 11, inclusive, as though set forth fully.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Failure to Abstain from Chemical/Substance Abuse)**

15 13. Respondent is subject to disciplinary action under sections 4521, subdivision (a), and
16 California Code of Regulations, title 16, section 2576.6, subdivision (b)(4), on the grounds of
17 unprofessional conduct, in that on or about December 4, 2010, Respondent failed to abstain from
18 using a controlled substance. Complainant refers to, and by this reference incorporates, the
19 allegations set forth above in paragraphs 11-12, inclusive, as though set forth fully.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 14. Respondent is subject to disciplinary action under section 4521, subdivision (a) in
23 that on or about December 4, 2010, Respondent committed an act of unprofessional conduct.
24 Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraphs 11-13, inclusive, as though set forth fully.

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1 **DISCIPLINARY CONSIDERATION**

2 15. In order to determine the degree of discipline, Complainant alleges, as follows:

3 a. On or about September 26, 2008, the Board issued a Notice of Warning to
4 Respondent for her previous conviction history.

5 b. On or about July 12, 1993, after pleading guilty, Respondent was convicted of one
6 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving with a
7 suspended license] and one misdemeanor count of violating Vehicle Code section 31 [giving false
8 information to a peace officer] in the criminal proceeding entitled *The People of the State of*
9 *California v. Linda Carol Johnson* (Super. Ct. Los Angeles County, 1993, No. 93M04578). The
10 Court placed Respondent on three years probation, and ordered her to complete 350 hours of
11 community service.

12 c. The circumstances surrounding the conviction occurred on or about June 7, 1993,
13 Respondent drove with a suspended license and gave false information to a peace officer.
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15 **PRAYER**


16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board issue a decision:

18 1. Revoking or suspending Psychiatric Technician License No. PT 34452, issued to
19 Linda Johnson;

20 2. Ordering Linda Johnson to pay the Board the reasonable costs of the investigation
21 and enforcement of this case, pursuant to section 125.3; and

22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: **JAN 25 2013**

24 
25 TERESA BELLO-JONES, J.D., M.S.N., R.N.
26 Executive Officer
27 Board of Vocational Nursing & Psychiatric Technicians
28 State of California
Complainant

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